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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,477	09/29/2000	Renke Bienert	764-00897	3399

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EXAMINER

NGUYEN, TU X

ART UNIT PAPER NUMBER

2684

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/582,477

Applicant(s)

BIENERT ET AL.

Examiner

Tu X Nguyen

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8 and 10-20 is/are rejected.
- 7) ☒ Claim(s) 7 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's arguments, filed 6/30/04 with respect to claims 1 and 11-20 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 8, 11-12 and 14-19, are rejected under 35 U.S.C. 103(a) as being unpatentable over McNair et al. (US Patent 5,595,342) in view of Bojeryd (US Patent 5,946,622).

Regarding claims 1, 3 and 8, McNair et al. disclose a management system for a building or for one or more rooms in a building (see col.5 lines 1-40), having at least one control center and at least two components connected to the control center by radio, the control center receiving signals from the components or transmitting signals to the components (see fig.14 and col.7 lines 40-60).

McNair et al. further disclose the signals being transmitted within a prescribed range (54), wherein the signals are transmitted at least two different frequencies within the frequency range (54), at least one of these frequencies being outside the partial frequency range (55) of the frequency range (54), (see fig.3) which reads on the above

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limitation with broadest reasonable interpretation, i.e., channels 1 and 2 are defined in one group or range and channel 3 is another frequency group or range.

McNair et al. fail to disclose a portion of the frequency range is more commonly used than other portion of the frequency range by devices.

Bojeryd discloses a portion of the frequency range is more commonly used than other portion of the frequency range by devices (see col.5 lines 25-32). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of McNair et al. with the above teaching of Bojeryd in order to provide capacity demand as disclosed by Bojeryd (see col.1 lines 37-49).

Regarding claim 2, the modified McNair et al. disclose the signals are transmitted in a temporally offset fashion at at least two different frequencies (see McNair, fig.3), the examiner interprets "frequency hopping" corresponds to "temporally offset".

Regarding claims 11 and 15, the modified McNair et al. disclose everything as claim 1 above. More specifically, the modified McNair et al. disclose sending at least selected data using a first frequency in the subrange (see McNair, col.3 lines 7-24); and

Sending a least selected data using a second frequency that is not in the subrange (see McNair, col.3 lines 7-24).

Regarding claim 12, the modified McNair et al. disclose the step of sending a set of data is performed using a wireless transmission (see McNair, col.2 lines 12-24).

Regarding claims 14 and 19, the modified McNair et al. disclose wirelessly sending at least selected data using a third frequency that is also not in the subrange,

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wherein the second frequency is below the subrange and the third frequency is above the subrange (see McNair, fig.3) which reads on the above limitation with broadest reasonable interpretation, i.e., channels 1 and 2 are defined in one group or range and channel 3 is another frequency group or range.

Regarding claim 17, the modified McNair et al. disclose the step of identifying the subrange includes determining what other wireless devices there are in the vicinity (see Bojeryd, col.1 lines 29-36) of the building.

Regarding claims 16 and 18, the modified McNair et al. disclose a number of the wireless components are devices for monitoring environment conditions within an area of the building (see McNair, col.2 lines 9-20).

4. Claims 4-6, 10, 13 and 20, are rejected under 35 U.S.C. 103(a) as being unpatentable over McNair et al., in view of Bojeryd (US Patent 5,946,622) and further in view of Bartel et al. (US Patent 5,898,230).

Regarding claims 4-5, 10, 13 and 20, the modified McNair et al. fail to disclose the frequency range in particular an ISM band, wherein the frequency range is between 433 MHZ and 434.79 MHZ.

Bartel et al. disclose the frequency range in particular an ISM band, wherein the frequency range is between 433 MHZ and 434.79 MHZ (see abstract). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the modified McNair et al. with the above teaching of Bartel et al. in order to provide communication to be carried out in both a long distance and a close communication mode and where a variety of different signals are used.

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Regarding claim 6, the modified McNair et al. fail to disclose the frequency range is subdivide into a plurality of channels of substantially identical channel width.

Bartel et al. disclose the frequency range is subdivide into a plurality of channels of substantially identical channel width (see col.2 lines 52-55). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the modified McNair et a. with the above teaching of Bartel et al. in order to provide the transmitter and receiver are synchronized to the same carrier frequency.

***Allowable Subject Matter***

5. Claims 7 and 9, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is an examiner's statement of reasons for allowance:

Regarding dependent claim 7, the prior arts fail to teach "the channel width is about 50 KHZ" as cited in the claim.

Regarding dependent claim 9, the prior arts fail to teach "each channel being scanned at a step interval of about 10KHZ" as cited in the claim.

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### Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is 703-305-3427. The examiner can normally be reached on Monday through Friday from 8:30AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MAUNG NAY A, can be reached at (703) 308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

### Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

TN

October 18, 2004

  
NAY MAUNG

SUPERVISORY PATENT EXAMINER